Summary: Government Representative's Office Emergencies Act Briefing

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Hi folks,

Please see below for a summary of the Emergencies Act briefing with the Government Representative's Office.

Summary:

- Sen Gold: Senators are here to protect the rule of law and charter values, as well as regions. We are going to have a rough ride getting this through the Senate. We're likely going to be beginning the debate and ending it next week. I need any detailed briefing documents you have prepared and a detailed Q&A. I have unlimited time, which means they can keep me on my feet for hours. I need as much help as possible to acquit the government's case. If I can get my speech, a Q&A, and any other documents ideally before the weekend, that would be great.
- Sen Gold: The obvious question is "has the government met the threshold that the Emergencies Act demands?", so how did the government determine that the protests met section 3 of the Act?
    - Public Safety: We're obviously quite occupied, but we are here to support. Erskine-Smith had a good question about this as well. The justification of the need for the public emergency order is made by breaking it down among 5 topics. The first and the fifth are the ones that most equate to the real national security threat, that line up with what we find in the CSIS act, though the other 3 are also relevant. CSIS Act has section C, which refers to violence for the purposes of achieving a political or ideological activity? We are pulling together evidence and a definition for the 5 categories of rationale that were include in the order. So for each of the sections,

there is a justification. On section 5, there's an important nuance that states "the potential of increase in violence or level of threat". There's been a lot of threats made publicly and online, s.38 s.38 , and I can go so far as to say that there hasn't been anything specific – I won't get into Coutts – that we can point to as an "Aha!" moment where this switch flipped. As this event has grown, we started seeing certain events as it spread. The nuance there is that there is a potential for an increase in the level of unrest, and when are we supposed to pull the trigger? Do we wait for a terrorist event or do we see something mounting and make the decision to trigger the act.

- Justice: We need to determine this in relation to the emergencies act, not solely against the CSIS act. What we would say is that there is a recurring element in all the definitions about the threat to public safety and activities that are detrimental to the interests of Canada. There's a section on "respect for Canada's electoral institutions" that is important. There's not an easy answer. You will have many who will try to put you in the hole to pinpoint what section you are using, Solicitor-Client Priv. Solicitor-Client Priv. . It's about a national threat.

- Sen. Saint-Germain: What's the difference between the regular levels of extremism we see and what we've seen during the blockades?
  - Public Safety: Hard to quantify, because law enforcement don't target average Canadians. We're seeing a growing unrest about mandates and restrictions that led to a little bit of hate speech and the like. It also led to the blocking of our ports of entry, which is where the other elements of affecting our national security, affecting our relationship with trading partners, and the free flow of regular citizens. It's very hard to point at a specific act that tipped the balance, but all of these actions kept growing. We're, as the DPM said, trying to follow the money and determine the full extent of this.
- Sen Gold: By the time we start our debate, the border blockades will have been moved out. There is an assumption that the police could have acted directly on Day 1, and now these protestors are entrenched in Ottawa. Quebec saw it coming in Quebec city, and other cities have handled this well. Why do we expect the additional powers will be of use, and how will they be used?
  - Public Safety: The situation in Ottawa is due to police believe this was a normal protest. We saw challenges in Windsor. Some other areas have had greater success in stopping this. Tow truck drivers were refusing to assist, teachers were sending in students. If we manage to clear out Ottawa, we may be able to retract the act.
- Sen LaBoucane-Benson: How does he respond to the issue of Ottawa without throwing OPS or RCMP under the bus.
  - RCMP: Police are well equipped for peaceful protest. Police leaders are cautious because we are damned if we do and damned if we don't. There's been a spotlight on police that has led to discussions about how we treat protests and make operational plans.
- Sen LaBoucane-Benson: Do we have anything around the safety of the PM?
  - RCMP: We have seen rhetoric, but it's difficult to determine when it is just someone online or something more serious. The group in Ottawa is one of the first times we have seen this sort of thing. What is going to change with the measures is, for instance, the travel piece. Police can now take preventative measures. OPP could close off the 400 series highways

- Sen Gold: How about this – What happened happened, but that doesn't change the situation now and the need for it now.
    - Justice: The decision the government had to make was based on the facts at the time we made the decision. Solicitor-Client Priv. Solicitor-Client Priv. Solicitor-Client Priv.
    - Official: What's now in place is preventative, with the goal of preventing further protests. We can now designate protected places.
- Sen Gold: The Act is compliant with the Charter, can you speak with this?
    - Justice: The mention of the charter is very explicit because of its predecessor.
- Sen Gold: What does it mean for places to be designated as protected, and what does it mean by "may be secured"?
    - Justice: Section19 is the enabling authority, and we can make regulations under it to deal with the situation.
    - Public Safety: Section 2 (1) of the emergencies regulations. Section 6 allows you to designate protected areas in advance of any action, which means that law enforcement can secure it.
    - Justice: The language you quoted about other authorities under section 19 is to avoid amending the declaration, which would be very burdensome.
- Sen Gold: On information sharing between police and financial institutions. As I recall, Privacy Act still applies, and the reasonable expectation of privacy continues as well.
    - Finance: The Banks are conservative, they will not give us names. RCMP will offer information to the Banks. What will happen is that an me will be provided, and the bank can check their account, take action, and get back to the RCMP.
- Sen LaBoucane-Benson: Are provincial financial institutions covered under this act?
    - Finance: Yes.
- Sen Gold: So this adds to the powers of sharing information of government to financial institutions, is it correct that they can't normally share this?
    - Finance: It requires lawful authority, which this act provides.
- Sen LaBoucane-Benson: Can people be de-banked?
    - Finance: It's possible, but not the goal. The goal is to dissuade people. Accounts are supposed to be frozen, then unfrozen when the illegal actions cease.
    - FINTRAC: There are access to basic banking regulations as well, but once again this is temporary.
- Sen Gold: This gives new powers, but there are existing rules and protocols for banks to allow them to not to do business with criminals.
    - Finance: That's correct.
- Sen Gold: What happens when someone's account is improperly frozen?
    - Finance: They can go to the bank and ask them to unfreeze it.
- Sen Gold: Going to give you a list of questions I still have that :
    - We're talking Finance. Cryptocurrency, I don't pretend to understand it. On peer to peer, where there are no intermediaries, how will the government get at that?
    - Big question we'll be struggling with is the impact in provinces and their operations. There's going to be questions about the geological scope of this.
        - § Finance: There's no boundaries on the finance side, as money can flow across provinces to fund protests in Ottawa.

- Does the government worry that by invoking this act, we have now set a precedent for future government to feel emboldened to invoke the emergencies act?
- Parliamentary review committee has to be constituted and has an important oversight role to play, but the Act is quite slim on details. Two issues. One, it doesn't say how many members or how they're appointed for the Senate. We have parliamentary groups that are anxious about this, we'll consult with the government to see how they're doing it in the house, but I want to reassure folks that everyone recognized group will have representation on the committee.
- Secondly, on the Parliamentary review committee, how will it be constituted?
    - Justice: We do know 62 provides for 1 representative of the senate, we know that there's an amendment in front of the house. We will follow-up with you.
- Sen Gold: Deeply concerned about ensuring we have representation for the various groups in the Senate, without that, I am concerned about whether or not this can pass.
    - Seth: We have communicated this to the House Leader's office.

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